

ATTORNEY FOR VANDERBILT MORTGAGE AND FINANCE, INC.: Kent Hale, Craig, Terrill, Hale & Grantham, L.L.P., P.O. Box 1979, Lubbock, Texas 79408-1979, (806) 744-3232.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

IN RE: § CASE NO. 09-10213-rlj  
HENRY ELMO COLLINS and §  
DEANNA LEA COLLINS § CHAPTER 13

**MOTION OF VANDERBILT MORTGAGE AND FINANCE, INC.,  
FOR RELIEF FROM AUTOMATIC STAY AND WAIVER OF  
30-DAY REQUIREMENT UNDER SECTION 362(e)**

TO THE HONORABLE BANKRUPTCY JUDGE:

Movant, VANDERBILT MORTGAGE AND FINANCE, INC., complains of Respondents, HENRY ELMO COLLINS and DEANNA LEA COLLINS, and respectfully represents:

1. The Debtors herein filed a petition commencing a case under Chapter 13, Title 11, U.S.C., for the entry of an order for relief.
2. The attorney for the Debtors is Monte J. White, Monte J. White & Associates, P.C., 1106 Brook Avenue, Wichita Falls, TX 76301. The Chapter 13 Trustee in this case is Walter O'Cheskey, 6308 Iola Avenue, Lubbock, TX 79424.
3. This Court has jurisdiction of this Motion pursuant to 28 U.S.C., Section 1471, 11 U.S.C., Section 362 and Bankruptcy Rules 4001 and 9014.
4. This is a Motion under 11 U.S.C., Sections 362 and 1301 to lift the automatic stay granted under said Section and to permit Movant to foreclose its security interest in certain personal and real property described below on which Movant is a secured creditor.
5. Movant has a valid and perfected secured lien on a 2007 CMH Laredo

Manufactured Home, Serial No.: CLW026294TX, together with certain appliances, furnishings and equipment purchased with said manufactured home (the "Home"). The title to the Home has been surrendered and the Home is real estate.

6. Attached hereto is the Exhibit Summarization giving true and correct information from the Retail Installment Contract and Security Agreement, attached hereto as Exhibit "A" ("the Contract") which granted a security interest in the Home to Movant by Debtor.

7. Movant's debt is also secured by the real estate described in the Deed of Trust, attached hereto as Exhibit "B", and more fully described therein, to wit:

TRACT ONE:

BEING all of the South ½ of the East ½ of the North ½ of that certain Block of land, situated near the town of Hamlin, in Jones County, Texas, and same being a part of League 354 in the name of Austin & Williams and said tract being fully described by metes and bounds in that certain deed from Mary Bigham, a feme sole to W. C. Lockhart dated August 5<sup>th</sup>, 1958, and duly recorded in Volume 479, Page 526 of the Deed Records of Jones County, Texas, to which deed and the record thereof reference is hereby made for all purposes of description of First Tract and being a tract of land 75 feet by 100 feet;

TRACT TWO:

BEING 75 feet by 200 feet and being a part of League 354 in the name of Austin & Williams, situated near the town of Hamlin, Jones County, Texas, and being the same tract of land conveyed by Minnie M. McNeely, and her husband, Ben E. McNeely to William C. Lockhart and wife, Vertie E. Lockhart by deed dated February 14, 1956, and duly recorded in Volume 445, Page 76 of the Deed Records of Jones County, Texas, to which deed and the record thereof reference is hereby made for all purposes of description of Second Tract; and FIRST TRACT AND SECOND TRACT above described, being the same lot, tract or parcel of land conveyed by Albert L. Hoffman and wife, Hazel Hoffman unto Mildred Ozella Richmond, a widow dated June 23<sup>rd</sup>, 1978, and duly recorded in Volume 611, Page 35 of the Deed Records of Jones County, Texas, to which deed and the record thereof reference is hereby made for all purposes of description.

SAVE AND EXCEPT the North 64 feet of the South one-half (S/2) of the East one-half (E/2) of the North one-half (N/2) of that certain Block of land, situated near the Town of Hamlin, in Jones County, Texas, and same being a part of League 354 in the name of Austin & Williams and said tract being fully described by metes and bounds in that certain deed from Mary Bigham, a feme sole to W. C. Lockhart dated August 5<sup>th</sup>, 1958, and duly recorded in Volume 479, Page 526 of the Deed Records of Jones County, Texas, to which deed and the record thereof reference

is hereby made for all purposes of description and being a tract of land 64 feet by 100 feet. (the "Real Estate").

8. As described in the Exhibit Summarization hereto, is the information from the Statement of Location to the Home, attached hereto as Exhibit "C", evidencing Movant's secured creditor status as the Home is Real Estate.

9. Debtors are in arrears on Movant's secured debt. The balance due and owing on the Contract and Deed of Trust after discounting any unearned time price differential, is the sum of \$35,690.14.

10. Movant is entitled to relief under Section 362 of the Code for cause as Debtors are not making their monthly payments on the Home and Real Estate.

11. Movant does not have, and has not been offered, adequate protection for its interest in the Home and Real Estate.

12. Upon information and belief, Debtor(s) have no reasonable prospect for reorganization.

13. If Movant is not permitted to foreclose its security interest in the Home and Real Estate, it will suffer irreparable injury, loss and damage.

14. Movant specifically waives the 30-day requirement under Section 362(e).

WHEREFORE, Movant prays that upon final hearing of this Motion, the automatic stay granted pursuant to 11 U.S.C. Section 362 be modified and lifted to permit Movant to foreclose its security interest in the Home and Real Estate referred to in the above pursuant to the terms of the Contract and Deed of Trust; and, if necessary, modify the automatic stay pursuant to 11 U.S.C. Section 362 to permit the filing of judicial proceedings in State Court; and, if necessary,

modify the automatic stay to permit Movant to take such other legal action as is necessary to secure possession of the Home and Real Estate; and for such other and further relief as may be just and proper.

Respectfully submitted,

CRAIG, TERRILL, HALE & GRANTHAM, L.L.P.  
Suite 400, Wells Fargo Bank Bldg.  
P.O. Box 1979  
Lubbock, Texas 79408-1979  
(806) 744-3232  
FAX: (806) 744-2211

By: \_\_\_\_\_

Kent Hale  
SBN 08729700

**ATTORNEY FOR MOVANT**

**CERTIFICATE OF CONFERENCE**

By my signature below, I hereby certify that my office has conferred with the office of the attorney for Debtor, Monte J. White, and an agreement ~~has~~ has not been reached in this matter.

\_\_\_\_\_  
Kent Hale

**NOTICE**

**NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1205 TEXAS AVENUE, ROOM 306, LUBBOCK, TEXAS 79401 BEFORE THE CLOSE OF BUSINESS TWELVE DAYS FROM THE SERVICE OF THIS MOTION. IF SERVICE IS BY MAIL, THREE ADDITIONAL DAYS ARE ALLOWED PURSUANT TO FED R. BANKR. P. 9006(f).**

**ANY RESPONSE MUST BE IN WRITING, FILED WITH THE CLERK AND A COPY SERVED UPON COUNSEL FOR THE MOVING PARTY WITHIN THE TIME DESCRIBED ABOVE. IF NO RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED UNOPPOSED AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT.**

**IF A RESPONSE IS FILED, A FINAL HEARING ON THE MOTION WILL BE HELD ON NOVEMBER 4, 2009 AT 11:00 A.M. (VIDEO DOCKET) IN ROOM 2201, 3<sup>RD</sup> AND PINE, ABILENE, TEXAS. THE RESPONSE MUST CONTAIN THE INFORMATION REQUIRED BY ND TEX. L.B.R. 4001.1(b).**

**CERTIFICATE OF SERVICE**

I hereby certify that on 25<sup>th</sup> day of September, 2009 a true and correct copy of the foregoing document shall be served via electronic means, if available, otherwise by regular, first class mail to:

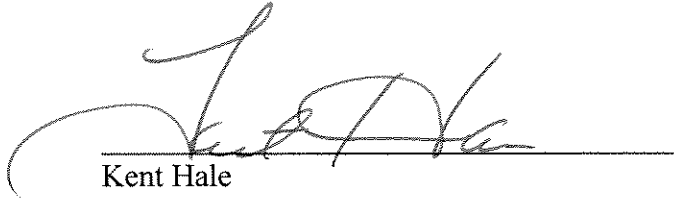
Henry Elmo Collins and  
Deanna Lea Collins, Debtors  
1120 S.W. Ave. A  
Hamlin, TX 79520

Monte J. White, Attorney for Debtors  
Monte J. White & Associates, P.C.  
1106 Brook Avenue  
Wichita Falls, TX 76301

Walter O'Cheskey, Chapter 13 Trustee  
6308 Iola Avenue  
Lubbock, TX 79424

U.S. Trustee  
1100 Commerce, Room 976  
Dallas, TX 75242

Vanderbilt Mortgage and Finance, Inc.  
Account No.: 344218  
Attn: Wade Hulsey  
500 Alcoa Trail  
Maryville, TN 37804



Kent Hale

**EXHIBIT SUMMARIZATION**

**EXHIBIT "A" - Retail Installment Contract and Security Agreement:**

**Creditor's Name:** VANDERBILT MORTGAGE AND FINANCE, INC.

**Debtor(s) Name:** HENRY ELMO COLLINS and DEANNA LEA COLLINS

**Date of Contract:** 11/30/07

**EXHIBIT "B" - Deed of Trust** (the "Real Estate")

Legal Description:

**TRACT ONE:**

BEING all of the South ½ of the East ½ of the North ½ of that certain Block of land, situated near the town of Hamlin, in Jones County, Texas, and same being a part of League 354 in the name of Austin & Williams and said tract being fully described by metes and bounds in that certain deed from Mary Bigham, a feme sole to W. C. Lockhart dated August 5<sup>th</sup>, 1958, and duly recorded in Volume 479, Page 526 of the Deed Records of Jones County, Texas, to which deed and the record thereof reference is hereby made for all purposes of description of First Tract and being a tract of land 75 feet by 100 feet;

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**EXHIBIT "C" – Statement of Location**

**Collateral Description:** 2007 CMH Laredo Manufactured Home

**Serial Number:** CLW026294TX